

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JEREMY LEO TINCER,

Defendant.

CR 20-11-GF-BMM-JTJ

FINDINGS AND
RECOMMENDATIONS

I. Synopsis

Defendant Jeremy Leo Tincher (Tincher) has been accused of violating conditions of his supervised release. (Docs. 78). Tincher admitted the alleged violations. Tincher's supervised release should be revoked. Tincher should be sentenced to custody until August 8, 2024, at 7:45 p.m., with 11 months of supervised release to follow.

II. Status

Tincher plead guilty on November 10, 2020, to the offense of Domestic Abuse by Habitual Offender, in violation of 18 U.S.C. Section 117 (a) as charged in the Indictment. (Doc. 41). Tincher was sentenced to 30 months of custody followed by

2 years of supervised release. (Doc. 35). Tincher's current term of supervised release began on January 19, 2024.

Petition

On May 3, 2024, the United States Probation Office filed a Petition requesting that the Court revoke Tincher's supervised release. (Doc. 50). The Petition alleged Tincher violated conditions of his supervised release by: (1) failing to participate in substance abuse testing by providing a diluted urine sample on March 24, 2024; (2) consuming alcohol, testing positive for ETG on April 4, 2024; (3) admitting to consuming alcohol on May 7, 2024, confirmed by a positive test for ETG on May 8, 2024; and (4) testing positive for methamphetamine on May 13, 2024, based upon a urinalysis test provided on May 8, 2024.

Initial Appearance

Tincher appeared before the Court on May 28, 2024. Tincher was represented by counsel. Tincher stated that he had read the Petition and that he understood the allegations against him. Tincher waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on May 28, 2024. Tincher admitted that he had violated the conditions of supervised release as set forth in the Petition by: (1) failing to participate in substance abuse testing by providing a diluted urine

sample on March 24, 2024; (2) consuming alcohol, testing positive for ETG on April 4, 2024; (3) admitting to consuming alcohol on May 7, 2024, confirmed by a positive test for ETG on May 8, 2024; and (4) testing positive for methamphetamine on May 13, 2024 based upon a urinalysis test provided on May 8, 2024.

Sentencing hearing

Tincher appeared before the Court on May 28, 2024. The Court noted that Tincher had admitted to violating the terms of his supervised release as set forth above. Tincher's violation is a Grade C violation. His criminal history category is I. Tincher's underlying offense is a Class C felony. Tincher could be incarcerated for up to 24 months. Tincher could be ordered to remain on supervised release for 14 months less any custody time. The United States Sentencing Guidelines call for a term of custody of 3 to 9 months.

III. Analysis

Tincher's supervised release should be revoked. Tincher should be sentenced to custody until August 8, 2024, at 7:45 pm, at which time the United States probation office shall transport Tincher to the bus depot in Great Falls, Montana, and purchase Tincher a bus ticket to Billings, Montana. Tincher shall then remain on supervised release for 11 months. During the first 180 days of supervised release, Tincher shall be placed at the residential re-entry center in Billings, Montana. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Tincher that the above sentence would be recommended to the Chief United States District Judge Brian Morris. The Court also informed Tincher of his right to object to these Findings and Recommendations within 14 days of this issuance. The Court explained to Tincher that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Tincher stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocate before Judge Morris.

The Court **FINDS:**

That JEREMY LEO TINCHER, has violated the conditions of his supervised release by: (1) failing to participate in substance abuse testing by providing a diluted urine sample on March 24, 2024; (2) consuming alcohol, testing positive for ETG on April 4, 2024; (3) admitting to consuming alcohol on May 7, 2024, confirmed by a positive test for ETG on May 8, 2024; and (4) testing positive for methamphetamine on May 13, 2024 based upon a urinalysis test provided on May 8, 2024.

The Court **RECOMMENDS:**

That the District Court revoke Tincher's supervised release and sentence Tincher to custody until August 8, 2024, at 7:45 p.m. at which time the United States probation office shall transport Tincher to the bus depot in Great Falls, Montana, and purchase Tincher a bus ticket to Billings, Montana. Tincher shall then remain on supervised release for 11 months. During the first 180 days of supervised release, Tincher shall be placed at the residential re-entry center in Billings, Montana.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file a written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. Section 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge and may waive the right to appear and allocate before a district court judge.

DATED this 28th day of May 2024.



John Johnston
United States Magistrate Judge